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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

**STATE OF MICHIGAN, STATE OF  
CALIFORNIA, et al.,**

**Plaintiffs,**

V.

**ELISABETH D. DEVOS, in her official capacity as the United States Secretary of Education, and UNITED STATES DEPARTMENT OF EDUCATION.**

## Defendants.

Case No. 3:20-cv-04478-JD

## **SUBSEQUENT JOINT CASE MANAGEMENT STATEMENT**

Date: October 15, 2020  
Time: 10:00 AM  
Judge: Hon. James Donato  
Trial Date: None set  
Action Filed: July 7, 2020

1 Plaintiffs State of Michigan, State of California, District of Columbia, State of Hawaii,  
 2 State of Maine, State of Maryland, State of New Mexico, Commonwealth of Pennsylvania, State  
 3 of Wisconsin, the Board of Education for the City School District of the City of New York, Board  
 4 of Education for the City of Chicago, Cleveland Municipal School District Board of Education,  
 5 and San Francisco Unified School District (Plaintiffs), and Defendants Secretary of Education  
 6 Elisabeth D. DeVos and the United States Department of Education (Defendants) respectfully  
 7 submit this Subsequent Joint Case Management Statement pursuant to Local Civil Rule 16-10(d),  
 8 in advance of the case management conference set for October 15, 2020 at 10:00 a.m.

9 The parties incorporate their Joint Case Management Statement filed on September 10,  
 10 2020 (Doc. No. 84) herein, except as otherwise noted below where changes or progress occurred  
 11 since the parties' previous statement.

12 **Updated Status of the Case:**

13 **Joint Statement:**

14 Defendants' counsel informed Plaintiffs' counsel on October 2, 2020 that Defendants will  
 15 not appeal the preliminary injunction issued in this matter, and will not appeal the order vacating  
 16 the interim final rule in *NAACP v. DeVos*, 20-cv-1996 (DDC). Both this Court and the DDC held  
 17 that the IFR was issued without authority and contrary to law, in violation of the Administrative  
 18 Procedure Act, 5 U.S.C. § 706(2)(A), (C).

19 Parties met and conferred on October 8, 2020, and parties are engaging in a discussion to  
 20 reach an agreement which resolves this matter.

21 **Plaintiffs' Statement:** If this cannot be resolved through mutual agreement, Plaintiffs  
 22 believe that the action can be resolved through a dispositive motion. Plaintiffs would seek a  
 23 permanent injunction in line with the Court's previously issued preliminary injunction (Doc.  
 24 No. 82).

25 **Defendants' Statement:** Defendants believe that Plaintiffs' challenge has been mooted by  
 26 the government's decision not to appeal the DDC Court's vacatur of the IFR in *NAACP*.  
 27 Defendants nonetheless believe that the parties should be able to come to agreement on next steps  
 28 to resolve this case in advance of the October 15, 2020 conference.

1  
2 Dated: October 8, 2020

3 By: /s/ Garrett Lindsey

4 XAVIER BECERRA  
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10 By: /s/ Neil Giovanatti

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Respectfully submitted,

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/s/ *Kate Talmor*  
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*Attorneys for Defendants*

## **ATTESTATION OF SIGNATURES**

I, Garrett M. Lindsey, hereby attest, pursuant to Local Civil Rule 5-1(i)(3) of the Northern District of California that concurrence in the filing of this document has been obtained from each signatory hereto.

Dated: October 8, 2020

/s/ Garrett M. Lindsey

GARRETT M. LINDSEY  
Deputy Attorney General  
*Attorney for State of California*